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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 ANN OTSUKA; JANIS KEEFE; CORINNE
9 PHIPPS; and RENEE DAVIS, individually and
on behalf of all others similarly situated,

No. C 07-02780 SI

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFFS'
DISCOVERY REQUEST**

10 Plaintiffs,

11 v.

12 POLO RALPH LAUREN CORPORATION, *et*
13 *al.*,

14 Defendants.
15 _____/

16 Plaintiffs have, by letter brief, filed a motion for an order requiring defendants to respond to 122
17 interrogatories.¹ [Docket No. 131] Plaintiffs served 305 interrogatories in May, 2006, when this case
18 was pending in state court. *See* Pl. Letter Br., at 2. On July 22, 2008, plaintiffs served 26 requests for
19 admissions and 159 additional interrogatories. (Many of the interrogatories were identical because
20 plaintiffs asked the same questions about defendants' 33 California stores.) The new interrogatories
21 seek information about the average time it took employees to undergo uncompensated "loss prevention
22 searches" before leaving defendants' stores, facts and evidence supporting defendants' denials of 26
23 requests for admissions, defendants' classification of sale associates, defendants' "arrears" program, the
24 Class composition, and the relationships among the three defendants. Defendants object that plaintiffs'
25 interrogatories are excessive and cumulative, and agree to answer only 25 of the new interrogatories.

26 Federal Rule of Civil Procedure 33 provides that, unless otherwise stipulated or ordered by the
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28 ¹ Plaintiffs seek responses from each of the three defendants to interrogatories 5-48, 50-54, 84-
89, and 93-159. This amounts to a total of 122 interrogatories for each defendant, not 116, as plaintiffs
state in their letter brief.

1 court, a party may serve on any other party no more than 25 written interrogatories. A court may grant
2 leave to serve additional interrogatories "to the extent consistent with Rule 26(b)(2)." Fed. R. Civ. P.
3 33. Federal Rule of Civil Procedure 26(b)(2) places limits on discovery that is, *inter alia*, cumulative,
4 or if the burden or expense of producing the discovery outweighs its likely benefit. Under Local Civil
5 No. 33-3, "A motion for leave to propound more interrogatories than permitted by Fed. R. Civ. P. 33
6 must be accompanied by a memorandum which sets forth each proposed additional interrogatory and
7 explains in detail why it is necessary to propound the additional questions."

8 Plaintiffs describe the general subject matter of the 122 additional interrogatories but do not
9 explain why each of them is necessary. In addition, they do not address why the new interrogatories
10 are not cumulative of the previously promulgated interrogatories and other discovery conducted over
11 the past two years of litigation. *See, e.g.*, Set One Nos. 209-216, 303 (loss prevention search policies
12 at individual stores), Set One Nos. 131-208, 304 (the arrears program), Set One Nos. 219-246, 272-273
13 (classification and compensation of sales associates). The Court finds that plaintiffs have not met their
14 burden under Local Civil Rule No. 33-3 of establishing why the Court should grant leave to propound
15 more than 25 interrogatories. Accordingly, the Court orders plaintiffs to select 25 of the 122 disputed
16 interrogatories to serve on defendants.

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18 **IT IS SO ORDERED.**

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20 Dated: 12/15/08

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23 SUSAN ILLSTON
24 United States District Judge
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